EXHIBIT G

EXHIBIT 67
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1   UNITED STATES DISTRICT COURT

2   NORTHERN DISTRICT OF CALIFORNIA

3

4   CISCO SYSTEMS, INC.,

5   Plaintiff,

6   vs.   Civil Action No.

7   ARISTA NETWORKS, INC.,   5:14-cv-5344-BLF

8   Defendant.

9   _____

10

11

12   HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

13   PURSUANT TO PROTECTIVE ORDER

14

15   VIDEOTAPED DEPOSITION OF KENNETH DUDA,

16   VOLUME I

17

18   February 12, 2016

19   9:31 a.m. - 6:09 p.m.

20

21   555 Twin Dolphin Drive, 5th Floor

22   Redwood Shores, California

23   REPORTED BY:

24   James Beasley

25   CSR No. 12807, CCR No. 835, RPR

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1   BY MR. PAK:

2   Q.   Welcome back, Mr. Duda.

3   A.   Thank you.

4   Q.   Are you familiar with -- let me step back.

5   You mentioned the RFCs that you submitted

6   to the IETF relating to VXLAN and NVGRE.

7   Do you recall that?

8   A.   I'm a co-author on those RFCs. I didn't

9   submit them myself, but, yes, I do recall them.

10   Q.   Did any of the RFCs that you co-authored

11   and ultimately submitted to the IETF require a

12   particular type of CLI command to be used?

13   A.   No.

14   Q.   Do any of the RFCs that you co-authored

15   mandate a particular type of user interface?

16   A.   No.

17   Q.   Is it possible for a network equipment

18   company to comply, for example, with the VXLAN

19   standard by using a graphical user interface?

20   A.   I -- I see no incompatibility between a

21   graphical user interface and the VXLAN RFC. The

22   VXLAN RFC doesn't call for any user interface at

23   all. It describes a tunneling encapsulation and

24   forwarding rules quite separate from --

25   THE REPORTER: Hold on. You're going to

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1   have to slow down.

2   "It describes"...

3   THE WITNESS: A tunnelling encapsulation

4   and forwarding rules, and not anything about the

5   interface to manage those functions.

6   THE REPORTER: Thank you.

7   BY MR. PAK:

8   Q.   And, Mr. Duda, are you -- sitting here

9   today, are you aware of any industry standard that

10   has actually been ratified by an industry standard

11   setting organization that requires the use of a

12   particular set of CLI commands?

13   A.   I'm not aware of any specific requirements

14   along those lines, though I believe there are

15   several that suggest CLI commands or show CLI

16   commands as examples.

17   Q.   Okay. Are you aware of any industry

18   standard that has actually been ratified by any

19   industry standard setting organization that requires

20   the use of a particular type of user interface?

21   A.   What do you mean by: "Type of user

22   interface"?

23   Q.   Graphical versus command line versus other

24   types of user interfaces.

25   A.   I'm not aware of any standard that

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1   requires the use of a graphical user interface.

2   Q.   Are you aware of any industry standard

3   that's actually been ratified by any industry

4   standard organization that requires command-line

5   interfaces to be used rather than graphical user

6   interfaces?

7   A.   Well, let's see.   I'm not sure.   There are

8   standards that relate to management functions and

9   define compatibility requirements; for example, the

10   NETCONF standards define XML formats in which

11   management data must be represented, so in some

12   sense that's a type of interface, though typically

13   the user interface would be built on -- on top of

14   that.

15   So I'm not sure, but I can't think of

16   anything offhand.   Let's put it that way.

17   Q.   Okay.   Let me be very specific.

18   With respect to the CLI commands that are

19   used in Arista's interface which overlap with

20   Cisco's CLI commands, are you aware of any specific

21   industry standard that has been adopted by an

22   industry standard setting organization that mandates

23   the use of those specific commands?

24   A.   I am not.

25   Q.   Okay.   Is it also true, Mr. Duda, that

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1   Arista replicated some of the screen outputs on

2   Cisco's equipment that are generated in response to

3   the invocation of certain CLI commands?

4   A.   We have several commands whose output

5   format is very similar to corresponding commands in

6   Cisco's CLI.

7   Q.   And that was done intentionally, correct?

8   A.   Yes.

9   Q.   Okay. Do you believe that screen outputs

10   are copyrightable?

11   MR. SILBERT: Objection. Calls for a

12   legal conclusion.

13   THE WITNESS: Well, I'm not sure. In some

14   cases if the screen output itself consists of

15   expressive material, for example, the script of a

16   play rendered on a screen, I would expect that

17   because the play itself is copyrighted the screen

18   output would be perhaps derivative work of that play

19   and, therefore, also copyrighted.

20   BY MR. PAK:

21   Q.   Okay. So just as a general premise, there

22   are certain types of screen outputs, you would agree

23   with me, that are copyrightable?

24   A.   There are certain types, yes. Another

25   example might be a movie which is itself screen

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1   spend some time thinking through this?

2   A.   Yes.

3   Q.   Okay. So, Mr. Duda, is there a technical

4   reason why Arista couldn't simply expand the Linux

5   interface to support all of the remaining industry

6   ratified standard protocols if it wanted to without

7   utilizing CLI interface?

8   A.   I'm not sure what you mean by "expand the

9   Linux interface." Linux is created by the Linux

10   community. If we were to create additional

11   functionality, unless we got the community to adopt

12   that functionality, it wouldn't be part of Linux.

13   So I'm not sure I really understand your

14   question.

15   Q.   And what I mean by "Linux interface" is

16   what you have been describing here as the Linux

17   interfaces in this document. So let me see if I

18   can --

19   A.   Native Linux interfaces, for example, in

20   the document.

21   Q.   Correct.

22   A.   Yes.

23   Q.   So let me see if I can rephrase my

24   question.

25   Mr. Duda, is there any technical reason

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1   why Arista could not add additional functionality to

2   the Linux interface that would allow Arista switches

3   to comply with all of the various network protocols

4   ratified by industry standards without utilizing the

5   CLI commands that we've been discussing?

6   A.   Well, again, I think my -- my same

7   confusion remains, which is that -- what I mean here

8   by "native Linux interfaces" are interfaces provided

9   by the Linux environment, the Linux community. And

10   so if we provided, say, access to our BGP protocol,

11   that -- it's ours; it wouldn't be part of Linux

12   unless we made it part of Linux and the Linux

13   community adopted it, which seems very hypothetical.

14   I don't quite see how to get there, honestly.

15   Q.   Let me see if I can state it this way:

16   Is it possible for Arista to utilize a

17   combination of the Linux interface and additional

18   tools that Arista would develop to access the

19   various functionality related to industry ratified

20   protocols in Arista switches without using any of

21   the CLI commands that overlap with Cisco?

22   A.   It is certainly possible to create an

23   alternate management approach for BGP that wouldn't

24   use any commands that overlap with Cisco. But I

25   think without designing a specific one it would be

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1   hard to know whether that would be a viable product

2   from the point of view of the end user.

3   Q.   You're saying you're not sure whether it

4   would sell or not?

5   A.   Whether the user could reasonably use it

6   to -- to render network or not.

7   Q.   All right. But from a software technical

8   perspective, you could do such a thing?

9   A.   I -- I believe it would be possible, yes.

10   Q.   Now, can you read the next sentence, going

11   back to CSI-CLI-540079, the sentence beginning with:

12   "The remaining 80 percent..."

13   A.   "The remaining 80 percent tell us they

14   appreciate the way they can leverage their

15   deep IOS experience, as they can easily

16   upgrade an aging Catalyst infrastructure

17   to Arista."

18   Q.   Okay. So the "they" there are referring

19   to Arista customers; is that true?

20   A.   Yes.

21   Q.   And "aging Catalyst infrastructure" that

22   you reference there, is that Cisco Catalyst

23   infrastructure?

24   A.   Yes.

25   Q.   Okay. So what you were saying there is,

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1   based on your experience, the remaining 80 percent

2   of Arista customers are telling you that they want

3   to leverage their experience with Cisco IOS so that

4   they can easily upgrade Cisco infrastructure to

5   Arista's infrastructure?

6   A.   Well, again, the -- the purpose of this

7   statement isn't really to be quantitative in that

8   way. But I think what I'm trying to convey here is

9   that many customers, certainly a -- a larger set

10   compared to the people taking advantage of pure

11   Linux interfaces, a larger set of customers take

12   advantage of the fact that our command line is

13   familiar and makes it easy to adopt our product.

14   Q.   And easily upgrade from Cisco's products

15   that use IOS to Arista's products that use your CLI

16   interface, correct?

17   A.   Certainly there are customers who do that.

18   Q.   Okay.

19   MR. SILBERT: I don't mean to interrupt,

20   but one of these devices keeps dinging. Is there a

21   way to just mute it or...

22   (Off-the-record discussion.)

23   BY MR. PAK:

24   Q.   So let me summarize this: What you state

25   in this document, Mr. Duda, is that at least the

1   industry standard command set, which largely

2   overlaps Cisco. If we weren't able to use any of

3   those commands for that type of customer, it would

4   be a larger impediment than for other customers that

5   are already using more of a Linux-like approach to

6   managing switches or it would be less --

7   THE REPORTER: "It would be a larger

8   impediment," start there.

9   THE WITNESS: -- it would be a larger

10   impediment than for customers using a more

11   Linux-like approach to managing switches where the

12   impact would be less. I'm not sure how to quantify

13   it.

14   BY MR. PAK:

15   Q.   If you were -- if Arista was using a

16   totally different CLI interface than what Cisco

17   offers, why couldn't the customers simply convert

18   their tools to work with that different CLI

19   interface as opposed to the Cisco CLI interface?

20   MR. SILBERT: Objection. Calls for

21   speculation.

22   THE WITNESS: As a technical matter, I

23   suspect that it's feasible to convert tools in most

24   cases but it makes things more difficult for the

25   customer. First, there's the need to figure out how

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1   to convert the tool to do the work. And now you

2   have two versions of the tool which you have to

3   maintain separately moving forward.

4   THE REPORTER: "Now you have two

5   versions," start there.

6   THE WITNESS: -- two versions of the tool

7   that you have to maintain separately moving forward.

8   So I think the -- it will depend on the

9   customer, the sophistication level that they have as

10 engineers, the degree to which their tools -- number

11 of different features that their tools control and

12 interact with will change the costs also. So I'm

13 not sure -- I don't see an easy way to make a

14 general statement here.

15 BY MR. PAK:

16   Q.   Setting aside the cost or difficulty,

17 purely as a technical question, there's no technical

18 reason why a customer couldn't change their tools or

19 convert their tools in some way to work with a

20 different CLI interface if Arista was not allowed to

21 use the Cisco-like IOS interface, correct?

22   A.   I believe in most cases it would be

23 technically feasible to make those changes.

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1   (Off-the-record discussion.)

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21   MR. PAK: Let's take a quick break here,

22   and then we can figure out how much time is left and

23   then we'll proceed.

24   THE WITNESS: Okay.

25   THE VIDEOGRAPHER: Off the record. The

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1   time is 5:40 p.m.

2   (Recess taken at 5:40 p.m.)

3   THE VIDEOGRAPHER: On the record. The

4   time is 5:47.

5   MR. PAK: All right. Mr. Duda, so I'm

6   going to introduce my next deposition exhibit,

7   Number 273, which is a CD -- Exhibit 274.

8   (Off-the-record discussion regarding

9   exhibit.)

10   (Duda Exhibit 274 was marked for

11   identification and attached to the

12   transcript.)

13   MR. PAK: So, Mr. Duda, I've marked as

14   Exhibit 274 a CD ROM that contains two video clips,

15   or audio clips. One is the full audio clip of you

16   presenting or talking as part of a Packet Pushers

17   podcast. And there's a smaller file which is an

18   excerpt from that long discussion that you had,

19   which is Exhibit 274.

20   So what I'm going to do is hand a copy to

21   counsel.

22   MR. SILBERT: Thanks.

23   MR. PAK: I'm going to play, in the

24   interest of time, the snippet, which is the clip

25   that's on this CD, and ask you some questions about

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1   that.

2   Let me know if you can hear this.

3   THE WITNESS: Okay.

4   (Video excerpt played from Exhibit 274.)

5   "Oh, this is -- it's very simple. We

6   want to minimize the transition cost to

7   our customers. Our customers come very

8   well trained, big stacks of people who

9   understand that particular CLI. And we

10   actually copied it slavishly. You know,

11   even the things we thought were really

12   silly, we went ahead and copied them

13   anyway because we wanted it to be as

14   seamless an experience for our customers

15   as possible.

16   "And something I'm still hoping that an

17   enterprise customer -- an enterprising

18   customer will do, is -- our CLI is just

19   a -- it's just like the shell, right, just

20   like Linux supports multiple shells,

21   there's no reason why EOS can't have

22   multiple CLIs. So if anybody wants to do

23   a cool, modern CLI or EOS, hey, we're a

24   real big fan.

25   (Overlapping speakers.)

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1   "That would be -- that would be a dream

2   come true. So any volunteers to do a

3   Juniper CLI, I have lots of milkshakes

4   here. I'm very happy to finance the

5   activity that way."

6   BY MR. PAK:

7   Q.   Did you give that interview?

8   A.   That sounded like me, sure.

9   Q.   Do you recall doing that interview?

10   A.   No.

11   Q.   Okay. Do you deny that you told, as part

12   of this podcast, that you slavishly copied the Cisco

13   IOS?

14   A.   I'm not exactly sure what I said I

15   slavishly copied in that interview. I think I

16   probably referred to an industry standard command

17   set, although I couldn't hear every -- every word

18   there. As you know, we've, in some cases, followed

19   CLI more faithfully than others.

20   So I'm not sure exactly what "slavishly

21   copied" means. I think that was true in the sense

22   that I meant it at the time, meaning that we

23   followed details as much as possible where we felt

24   that those details were important for

25   interoperability, where we felt like they were

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1   broadly practiced, but clearly not every detail was

2   actually the same.

3   Q.   But what you said publicly is you

4   slavishly copied that particular CLI and you were

5   referring to the IOS CLI, true?

6   A.   I couldn't tell what I was referring to

7   from having just listened to that just now.

8   Q.   Do -- you're not disputing the statements

9   that you made on this podcast, correct?

10   A.   No, I'm not.   But to clarify them, clearly

11   we haven't actually copied every detail.

12   Q.   You copied some of the command syntax from

13   the Cisco CLI, correct?

14   A.   Yes, we did.

15   Q.   Okay.   And you tried to copy as much as

16   you can unless there was a compelling reason to

17   depart from it, correct?

18   A.   Insofar as we have commands that have the

19   same functionality, we like to use the same command

20   as much as possible.

21   THE REPORTER: Repeat your answer again,

22   please.

23   THE WITNESS: Insofar as we have commands

24   that have the same functionality, we like to use the

25   same command as much as possible.

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1   BY MR. PAK:

2   Q.   And you're talking about the Cisco IOS CLI

3   in that context, correct?

4   A.   That's right.

5   Q.   Okay.   What were you talking about there

6   with respect to a Juniper CLI interface for Arista?

7   Do you have a Juniper CLI interface today?

8   A.   We do not have a Juniper CLI interface

9   today.

10   Q.   Okay.   Did you ever consider implementing

11   a Juniper CLI interface for Arista switches?

12   A.   Well, I think we considered obviously in

13   that interview the possibility of multiple CLIs

14   existing on the switch that might follow different

15   styles or different patterns of command syntax.

16   Q.   That's technically feasible, correct?

17   A.   I believe that it is.

18   Q.   And with enough engineering resources and

19   time, you could develop a Juniper CLI interface for

20   Arista Ethernet switches if you wanted to?

21   A.   Well, I'm not sure exactly what you mean

22   by a Juniper CLI interface.   Clearly it would be an

23   interface to our switch, not Juniper's.   I think it

24   would be technically feasible to create a CLI that

25   broadly follows the conventions of the Junos CLI.

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1   THE REPORTER: "Broadly follows..."

2   THE WITNESS: -- the conventions of the

3   Junos CLI.

4   BY MR. PAK:

5   Q.   And that's J-u-n-o-s?

6   A.   That's correct.

7   Q.   Okay.

8   MR. PAK: Let me show you another clip.

9   This one I'll mark as Exhibit 275.

10   (Duda Exhibit 275 was marked for

11   identification and attached to the

12   transcript.)

13   MR. PAK: And, again, this one is actually

14   a video interview that you gave, and on this CD we

15   have the full entire video, as well as a small

16   excerpt from that. I'm going to play the excerpt

17   that shows you giving the interview, and I'm going

18   to ask you a few questions. Okay.

19   (Video excerpt played from Exhibit 275.)

20   "There are some customers who actually

21   prefer to manage our -- our switches to

22   the -- the Linux interfaces because their

23   processes are already built and optimized

24   around servers. But most customers --

25   exactly what you said is right -- but they

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1   would really prefer to administer a switch

2   like a switch.

3   "Yeah.

4   "They have the years of training and

5   experience.

6   "Muscle memory, you know --

7   "Exactly.

8   "Show ant, all that kind of stuff.

9   "Right, right. So it turns out that

10   you don't have to choose. You can

11   actually have it both ways. You can have

12   a true Linux environment and all of the

13   familiar management interfaces, standard

14   CLI, standard SNMP stack, OMI, if you

15   prefer to manage that way.

16   "All of these different management

17   interfaces are simply user processes

18   running on top of the -- the same SysDB

19   and Linux core as -- as all the rest of

20   the software. And we've found it's been

21   very helpful for our customers to be able

22   to rapidly adopt our products and

23   integrate them into their environments.

24   "It's been very helpful that our

25   switches provide a familiar management